

**REMARKS**

Applicants have amended Claims 3-6 and have provisionally withdrawn Claims 12-15. Claims 3-6 have been amended to recite the use of a "treatment" gas, as recited in Claim 1, instead of a "reducing" gas. Applicants submit that such claims now have a proper antecedent basis.

Claims 12-15 have been provisionally withdrawn in view of the Examiner's Action. In the Action, the Examiner restricted claims pending Claims 1-15 of the application as follows:

Species A, as shown in Fig. 1-2;

Species B, as shown in Fig. 3-4;

Species C, as shown in Fig. 7

The Examiner stated that Applicants are required under U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner also stated that none of the claims appear to be generic.

Applicants hereby respectfully request reconsideration of the restriction requirement with respect to Species A and Species B under 37 C.F.R. § 1.143 in view of the reasons provided below. "If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor." 37 C.F.R. § 1.143.

Applicants respectfully submit that the application contains several generic claims with respect to Species A and B, and therefore a restriction between Species A and B is not necessary. "[M]ore than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species." 37 C.F.R. § 1.141(a). In this regard, Applicants submit that Claims 1-15 are generic to both Species A (Figures 1-2) and Species B (Figures 3-4).

"In general, a generic claim should include no material element additional to those

recited in the species claims, and must comprehend within its confines the organization covered in each of the species.” MPEP § 806.04(d). The only difference between Species A and B, as noted in Figures 1-4 and the specification (pp. 8, lines 30-34), is the metal utilized to produce the hydrogen gas stream that is later utilized in the production of methane. Iron is used in Figures 1-2 and tin is used in Figures 3-4. Moreover, both metals are contacted by steam to produce the hydrogen gas stream. Claims 1-15 do not recite any limitations with respect to the metal utilized to produce the hydrogen gas stream, and therefore appear to be generic to both Species A and B. In view of the foregoing, Applicants respectfully submit that Claims 1-15 are generic in relation to Species A and B, and that a restriction requirement is not proper between these species since the application contains at least one generic claim. 37 C.F.R. § 1.141(a).

Applicants also respectfully submit that such generic claims do not require an unduly extensive and burdensome search. “[N]o restriction can be required except in those applications where the generic claims recite such a multiplicity of species that an unduly extensive and burdensome search is necessary.” MPEP § 809.02(d). Applicants are also allowed a “reasonable number” of species during prosecution. “[T]he examiner may require restriction of the claims to not more than a *reasonable number* of species before taking further action in the application.” 37 C.F.R. § 1.146. Since the only difference between Species A and B is the metal used in the production of a hydrogen gas, there are a reasonable number of species to be examined, the search would not be “unduly extensive and burdensome”, and therefore a restriction between Species A and B is not necessary and is improper. MPEP § 806.04(a).

Additionally, Applicants respectfully note that the Examiner did not provide a reason for the restriction between Species A, B and C. The Examiner simply stated that the application contains claims to the patentably distinct species of Species A, B and C. It is improper to issue a restriction requirement without providing a basis for the restriction requirement. “The particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere

statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given." MPEP § 816. Thus, Applicants respectfully submit that the restriction requirement is improper for failure to provide a basis for the restriction. If the Examiner maintains the restriction requirement, Applicants respectfully request that the Examiner provide a concise statement regarding the reasons for the restriction. MPEP § 816.

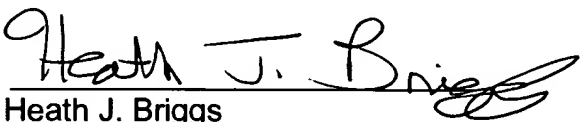
In view of the foregoing, Applicants respectfully request reconsideration and modification of the restriction requirement of February 23, 2005, where Species A and Species B are considered one species. 37 C.F.R. § 1.143.

Nonetheless, pursuant to 37 C.F.R. § 1.143, Applicants hereby provisionally elect to prosecute the claims of Species A (Figures 1-2). Claims 1-11 are readable thereon. Claims 12-15 have been provisionally withdrawn.

It is not believed that any fees are owed with respect to this response. However, any necessary fees can be charged to Deposit Account No. 50-1419.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By:   
Heath J. Briggs

Registration No. 54,919  
3151 South Vaughn Way, Suite 411  
Aurora, Colorado 80014  
(303) 338-0997

Date: March 23, 2005